

REPORT OF PRELIMINARY INVESTIGATION  
TO DETERMINE PUBLIC INTEREST AND NECESSITY  
FOR A STATUTORY ADJUDICATION ON SHERIDAN CREEK  
IN SHASTA COUNTY

GENERAL

The purpose of this report is to summarize the results of a preliminary investigation relating to a petition for a statutory adjudication of all rights to the use of water in the Sheridan Creek watershed in Shasta County. The petition for the statutory adjudication was filed by Floyd F. and June E. Thill. Attachment 1 is a copy of the petition.

The investigation was made by the Board's staff as provided by Section 2525 of the California Water Code to determine if the facts and conditions are such that an adjudication would serve the public interest and necessity.

A statutory adjudication will serve the public interest and necessity if it accomplishes the following:

1. Removes the uncertainty surrounding exercise of unquantified riparian and pre-1914 appropriative rights.
2. Provides for an orderly distribution of a limited supply of water.
3. Permits a more efficient administration and planning for use of agricultural resources of the watershed.
4. Provides the necessary basis for water users to request watermaster service.
5. Maximizes beneficial use, and prevents waste, unreasonable use, unreasonable method of use and unreasonable method of diversion of water.
6. Protects the public trust values in the watershed.

The preliminary investigation conducted by Board staff included a review of the files in the Division of Water Rights, a field investigation and discussions with several property owners in the area.

#### STREAM SYSTEM

The stream is located about 25 miles east of the City of Redding in Shasta County. The general location of the stream system is shown on maps designated as Attachments 2 and 3.

The USGS topographic map, Whitmore, California, indicates that Sheridan Creek originates about 1/8 of mile southwest of Inwood. It is believed to be the beginning of the natural channel in which return flow and surplus water from Sheridan Ditch is present during the irrigation season. Water from Bear Creek is conveyed into the Sheridan Creek Stream System through the Sheridan Ditch. From the end of Sheridan Ditch the natural channel runs for 4.25 miles where it merges with Bear Creek, a tributary to the Sacramento River.

An unnamed tributary of Sheridan Creek is called the South Fork of Sheridan Creek in this report. Two branches of the South Fork of Sheridan Creek converge before entering the main channel of Sheridan Creek. The confluence of the South Fork of Sheridan Creek and Sheridan Creek is located within the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 27, T31N, R1W, MDB&M.

## DESCRIPTION OF STREAMFLOW AND WATER USE

A spring known locally as Buckskin Spring lies within Section 29, T31N, R1E, MDB&M in the South Fork Bear Creek drainage. All of the water from Buckskin Spring is diverted into an artificial ditch, through which it is carried out of the Bear Creek watershed, then it flows into a natural channel for conveyance to irrigate land within the South Fork Sheridan Creek watershed. The water flows in the natural channel for about 3/4 mile where it is diverted from the channel and spread onto C. D. and H. Miller's permanent pasture. The average year-round output of the spring is estimated to be about five cubic feet per second (cfs).

About  $\frac{1}{4}$  of the spring flow is diverted at the Miller Ranch into Buckskin Ditch for conveyance to parcels of land owned by J. V. Seaman and others in Sections 23 and 26, T31N, R1W, MDB&M. It appears that tailwater and seepage from the Buckskin Ditch system contribute to the flow of the branch of the South Fork of Sheridan Creek which runs north of Black Butte School. This stream is called the North Branch of the South Fork of Sheridan Creek in this report.

Water from Buckskin Spring also makes up the major portion of the flow in the branch of the South Fork of Sheridan Creek lying south of Black Butte School which will be called the South Branch of the South Fork in this report. There are three known property owners having deeded rights to this water.

Table 1 summarizes applications to appropriate water and statements of diversions and use which have been filed with the State Water Resources Control Board within the Sheridan Creek watershed.



## FISH AND GAME

The lower reach of Sheridan Creek upstream from its confluence with Bear Creek supports a small fishery of resident steelhead, rainbow trout, and brown trout. This reach of the creek has not been fully developed and still retains some wildlife habitat value. The fish and wildlife habitat on upper reach of Sheridan Creek and the South Fork of Sheridan Creek has either been lost or has been substantially diminished through development and because of the intermittent stream flow.

## USE OF WATER

F. F. & J. E. Thill. The North Branch of the South Fork of Sheridan Creek flows through and along the Thill property. Therefore, the owners have an apparent riparian claim to a share of the water of the stream which originate in the watershed. Mr. and Mrs. Thill acquired the property in 1976, have cleared one or two acres of land, have planted dwarf fruit trees and berries and use water from the stream for irrigation. They have drilled a groundwater well which is capped. The quality and quantity of water available from the well is not known. The Thills plan to build a house, provided adequate water is available. They are reluctant to rely on the stream for water without assurance of adequate supply for domestic use and irrigation of their orchard and garden. They stated that the stream had completely dried up in each of the last three years (1979, '80, & '81). They said that prior to 1979 the stream did not dry up during the summer. They believe the reason for the stream drying up is that major upstream diversions take all the water. They think the Scammon Ranch is one of the upstream diverters that caused the stream to dry up. They also think there may be some loss of water because of evaporation and seepage from a pond built in the channel upstream.

Observed flows in the North Branch of the South Fork of Sheridan Creek was estimated at 1 cfs on June 9, 1983 and less than  $\frac{1}{2}$  cfs on May 4, 1984. The June 1983 flow was observed as it passed the Thrill property and the May 1984 flow was observed as it passed through the culvert downstream from the parcel.

The Thill property is described as Lot 44, Unit No. 2, of the Forest Hills Subdivision. There are other lots in the subdivision through which the Northern Branch of the South Fork of Sheridan Creek flow, but the owners were not interviewed.

J. V. Scammon, et al. The Buckskin Ditch (aka Scammon Ditch) conveys water from the Miller Ranch a distance of about three miles to the Scammon Ranch where the water is used to irrigate about 10 acres of pasture. Mr. Scammon stated that he acquired his property in 1970 and that his deed includes the right to divert a portion of the water from Buckskin Spring. He has indicated problems with neighbors tapping into his ditch supply. Apparently, the diversion and use of water is made under a claim of pre-1914 appropriative right and is regulated through a 9-inch Parshall flume on the Miller Ranch. About one-half mile above the Scammon Ranch another party takes one-third of the water from the ditch. Statement of Water Diversion and Use 1213 has been filed on the source, Buckskin Spring.

The Scammons also hold License 10789 (Application 23873) for year-round diversion of 0.045 cfs for domestic, irrigation and stockwater use. The small spring fed stream would be tributary to Sheridan Creek during infrequent period of continuity of flow.

C. D. & H. Miller. Water from Buckskin Spring is diverted from the South Fork Bear Creek watershed under pre-1914 appropriative claim. This water is the primary source for flood irrigation of approximately 100 acres of permanent pasture and for stockwatering. The Millers indicated that there are local springs on the property but the amount of water from their sources is minimal in comparison to the water from Buckskin Spring.

Water from Buckskin Spring enters the Buckskin Ditch on the Miller property and conveyed to the Scammon's property. Return flow from the Millers' 100 acre pasture is almost entirely confined to the South Branch of the South Fork rather than passing it to the northern channel on which the petitioner's land is located. This water becomes available to O. R. Benson and F. N. Sutter who use it as described below. Possible new changes in irrigation practice by the Millers, along with evaporation and seepage losses may have affected the amount of water leaving the ranch and the flow pattern. This may particularly have affected the flows in the channel upon which the Thill's property is located.

O. R. Benson. The South Branch of the South Fork flows through the Benson parcel. Mr. Benson indicates that along with his deeded right of 5 miner's inches, he also holds riparian rights to the natural flow of water. His use of water is for irrigation of pasture, orchards, lawns and garden. Mr. Benson indicated that the surface supply is inadequate around August.

F. N. Sutter. The South Branch of the South Fork flows through the Sutter's 25 acre parcel. Mr. Sutter indicated that 10 miner inches is deeded to the land that also has riparian frontage. The current use is for stockwatering. A reservoir covering a surface area of about five acres is located on the Sutter property.



M. Sanders. The South Fork of Sheridan Creek below the confluence of the branches traverse the Sanders parcel. Under riparian claim, the owner diverts water for domestic use and for irrigation of pasture and orchard. He plans for future water use in a hydro project. The Department of Fish and Game has requested a  $\frac{1}{2}$  cfs bypass for fish and wildlife protection as a future condition of his power project. The stretch of stream has been studied by the owner and he has found year-round hydraulic continuity of flow to Sheridan Creek.

M. Cox. The owner claims that remnants of an old stream channel and Buckskin Ditch are located on the property. Mrs. Cox's domestic water is obtained from a spring while irrigation water is taken from the ditch. Her use of water is dependent on the amount passed by Scammon. Her only experience with water shortages was during dry years.

W. N. Hackler. The North Branch of the South Fork of Sheridan Creek flows through the property. The stream originates on the Miller Ranch and appears to be primarily tailwater from Buckskin Spring. Hackler said that flows were very low during the warmer months. His water use is for stockwatering. A spring fed reservoir is supplemented from the creek under regulatory riparian claim. The flow leaving the parcel on May 4, 1984 was estimated at 25 gallons per minute.

R. & D. Wacker. The North Branch of the South Fork of Sheridan Creek flows across the northwestern portion of the Wacker property. The property appears to be riparian for use of natural water for domestic irrigation and stockwatering. Mr. Wacker indicates that within the past several years, the July stream flows were muddy and low.

W. & N. Angelmyer. The Angelmyer land has no contact with Sheridan Creek. Their sole source of water is Wengler Spring that originates on their parcel. They claim to utilize all of its flow for domestic, irrigation of pasture, orchard, and garden. Tailwater leaves the land by way of ephemeral streams. The Angelmyer claim to have not experienced any water supply problems.

Bill D. Sutter. Mr. Sutter is owner of a tract of land south of Sheridan Creek which has no creek frontage. The owner's domestic, irrigation, and stockwatering demands are provided through an unnamed ditch which diverts Sheridan Creek water to his non-riparian land. Sutter claims the ditch was constructed in the 1860's. He was not positive if he holds a deeded right but mentioned a "wastewater" right from a larger user. During normal years, Mr. Sutter has not experienced any shortage.

C. Festinger. Sheridan Creek as well as Bear Creek abuts the Festinger's 320 acres. Water for domestic use for three homesites and irrigation of pasture and garden is diverted from Sheridan Creek under a riparian claim. The owner has not experienced any water problem but does have a concern on water quality if upstream agricultural demands grow.

#### COMPLAINT OF ILLEGAL WATER USE

In November 1981, the Board received complaints from property owners in the Sheridan Creek watershed. Their complaints were against a water user taking South Fork Bear Creek water. The complainant alleged that an unreasonable amount was taken and because of the absence of a basis of right the diversion would be harmful to their operation and the water supply available to them from their Sheridan Ditch diversion.



The alleged illegal diverter's response to the complaints was that riparian rights were utilized for use of water on riparian lands. The Board staff dropped action on the complaint since it was not within the Board's authority to determine riparian and pre-1914 appropriative water rights through the complaint process.

#### SUMMARY AND CONCLUSIONS

1. The petition requests a determination of the water rights of Sheridan Creek and its tributaries. Contrary to the belief of the Petitioner that the water from Buckskin Spring flows naturally to their property, it has been found that the spring water is imported into the Sheridan Creek watershed. Buckskin Spring water is the primary source of water for the two branches of the South Fork of Sheridan Creek. It appears that by early summer, the amount of natural water is either nonexistent or is small in comparison to the foreign flow in the stream.
2. The lower Sheridan Creek basin gets a large portion of its water from Bear Creek by way of Sheridan Ditch. Return flow from this foreign water and some natural flow commingle to form Sheridan Creek. The South Fork of Sheridan Creek merges with the North Fork of Sheridan Creek. Sheridan Creek flows into Bear Creek. Water within the lower basin is used mostly under deeded right, presumably pre-1914 appropriative, rather than riparian rights. The supply of water is normally more than adequate for the demand so shortages are rare within this reach.

3. The petitioners' use of water is from the North Branch of the South Fork of Sheridan Creek rather than the other channels of Sheridan Creek. The area to be considered for the adjudication should be confined to the North Branch of the South Fork of Sheridan Creek. By limiting the adjudication to that smaller watershed, the adjudication could be involved with as few as 12 parties. Most of the parties are believed to possess riparian rights.
4. The Miller Ranch imports water from Buckskin Spring under claim of a pre-1914 appropriative rights. About 75% of the imported water is used for irrigation by the Millers while 15% of the flow is diverted by J. V. Scammon and 10% by an unnamed party into Buckskin Ditch. The percentage of natural flow originating in the South Fork of Sheridan Creek drainage is not known, but it is estimated to be minimal in comparison to the amount of water from Buckskin Spring.
5. Tailwater leaves the Miller land by way of two channels. Three diverters from the South Branch of the South Fork claim deeded entitlements totaling 20 miner inches. The major portion of the water is return flow from the Miller Ranch. The quantity of water from the Miller Ranch entering the North Branch of the South Fork of Sheridan Creek depends on the Millers' irrigation use and their operations in bringing in foreign water.
6. An alternative available to the Thills could be litigation which may be referred to the Board by the court under Section 2000 et seq. of the Water Code. A court reference would be restricted to determination of the water rights of the specific parties named in the case. However, such an action could probably prove to be unproductive for the Thills since their riparian claim would not entitle them to use foreign water brought into the Sheridan Creek system.

7. Since a major portion of the stream flow is return flow from water imported into the Sheridan Creek watershed, another alternative available to the Thills is to file an application with the Board to appropriate water. However the application will be subject to limited season of diversion for the diversion lies within the Sacramento River Watershed.

#### RECOMMENDATIONS

Staff recommends that the Board deny the Thills petition for a statutory adjudication for the following reasons.

1. A statutory adjudication under the Water Code directs the Board to determine all water rights in the stream system and requires that all costs accrued by the state will be equitably apportioned to the parties involved in the proceeding. The Board determination of the rights of all water users just for the watershed of the North Branch of the South Fork of Sheridan Creek is estimated to be as much as \$25,000. The parties within the watershed have not expressed support for the adjudication or interest in the water.
2. The public interest and necessity would not be served in a determination of water rights for riparian land holders when it appears that the water is primarily foreign water imported into the Sheridan Creek watershed. In actuality, the adjudication would be dealing with rights to South Fork Bear Creek and Bear Creek flows.
3. Budget limitations have reduced the staff that would be available to work on this project. In the absence of additional staff, completion of the statutory adjudication could take an unreasonably long period of time.



This is not a factor in considering public interest and necessity since costs of the adjudication are borne by the parties. However, as a practical management problem, this should be considered by the Board especially when the benefits of the adjudication appear to be marginal.

TABLE  
SUMMARY OF FILINGS WITH THE STATE OF CALIFORNIA FOR THE SHERIDAN CREEK STREAM SYSTEM

<u>Application</u>	<u>License</u>	<u>Statements</u>	<u>Name</u>	<u>Source</u>	<u>Amount</u>	<u>Use</u>	<u>Season</u>
14905	5076	—	V. I. Wexner (New Owner, Festinger)	Sherdian Creek	5200 gpd	D,I	Jan 1 - Dec 31
23875	10789	—	J. V. Scammon, et al.	Unnamed Stream	0.045 cfs	D,I,S	Jan 1 - Dec 31
—	—	704	F. N. Sutter	Sherdian Creek	—	D,I,S	Jan 1 - Dec 31
—	—	721	H. and M. Klassen	Sherdian Ditch	—	I	Jan 1 - Dec 31
—	—	1213	J. V. Scammon, et al.	Buckskin Spring	3 cfs (Max.)	D,I	Jan 1 - Dec 31
—	—	2323	H. C. Cox	Buckskin Ditch	0.2 cfs (Max.)	I	Apr 1 - Nov 30
—	—	8112	V. S. Stephenson	Sheridan Ditch	—	D,I,S	Jan 1 - Dec 31
—	—	8340	W. A. and N. Angelryer	Wengler spring	—	D,I,S	Jan 1 - Dec 31
—	—	8448	D. D. and W. Arnett	Sheridan Ditch	—	I,S	Jan 1 - Dec 31
—	—	8542	G. G. Padgett (New Owner, Tibbet)	Sheridan Ditch	—	I,S	Jan 1 - Dec 31

